



Appeal Decision

Site Visit made on 23 July 2021

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th July 2021

Appeal Ref: APP/C1435/C/21/3266217

Land adjacent to Birchden Farm, Park Corner Lane, Groombridge, Withyham, East Sussex

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Michael Larter against an enforcement notice issued by Wealden District Council.
- The notice was issued on 1 December 2020.
- The breach of planning control as alleged in the notice is without planning permission, change of use of Land from agriculture to a mixed use for agriculture, the stationing of caravans for residential purposes, the storage of caravans in connection with land clearance operations, and the storage of plant and machinery.
- The requirements of the notice are to:
 - (i) Stop using the Land for the stationing of caravans for residential purposes, the storage of caravans in connection with land clearance operations, and the storage of plant and machinery.
 - (ii) Remove all caravans, plant, machinery, tools, vehicles and equipment from the Land.
 - (iii) Remove from the Land all materials, rubble, rubbish, debris, tools and equipment arising from compliance with the above requirements.
- The period for compliance with the requirements is: two weeks.
- The appeal is proceeding on the grounds set out in section 174(2)(b), (c) and (g) of the Town and Country Planning Act 1990 as amended.

Summary decision: The appeal is dismissed and the enforcement notice is upheld

Preliminary Matters

1. I note that the caravans, plant and machinery referred to in the enforcement notice have already been removed from the site.
2. The appeal was submitted on ground (b) and ground (g) was subsequently added. The appeal under ground (b) relates to whether the matters described in the notice have occurred, but it is unclear whether the appellant meant to appeal under ground (c) that there has not been a breach of planning control. As the Council has dealt with matters relevant to the ground (c) appeal within their Statement, I will deal with the appeal on grounds (b), (c) and (g).

The Appeal on Ground (b)

3. An appeal on this ground is that the matters described in the notice have not occurred. The burden of proof for this ground is on the appellant, with the relevant test of the evidence being on the balance of probability.
4. I understand that the appellant had been carrying out work on the site using an excavator and, possibly, other plant and machinery. In addition, two caravans were brought onto the site for welfare and security purposes whilst that work was taking place. I understand that a caravan was used for overnight security,

such that it was effectively used for residential purposes. Consequently, it is clear that the matters described in the notice did occur.

5. It is unclear from the information submitted when the plant, machinery and caravans were removed from the site. However, section 174(2)(b) is worded in the past tense. Consequently, even if the plant, machinery and caravans had been removed from the site prior to the notice being issued, the breach of planning control described on the enforcement notice would have occurred as a matter of fact and the appeal under ground (b) could not succeed.
6. For these reasons, I conclude that the appeal under ground (b) should fail.

The Appeal on Ground (c)

7. An appeal on this ground is that "those matters" (the matters stated in the alleged breach of planning control) do not constitute a breach of planning control. The burden of proof for this ground is on the appellant, with the relevant test of the evidence being on the balance of probability.
8. There is no dispute that the use of land for a mixed use comprising agriculture, the stationing of caravans for residential purposes, storage of caravans in connection with work on the land and storage of plant and machinery constitutes development within the meaning of Section 55 of the Act for which planning permission is required. No planning permission has been sought from or granted by the Council for these uses.
9. The Town and Country Planning (General Permitted Development) (England) Order 2015 grants planning permission for certain forms of development, which would normally include the stationing of a caravan or storage of plant and machinery in connection with operations being carried out on the land. However, The Wealden District Council (Land at Birchden Farm, Groombridge, Parish of Withyham) Directions Nos. 2 and 3 2003 remove those rights on this land. As a result, planning permission would be required for the uses comprising the mixed use in this case.
10. Since no planning permission has been granted for the development it thereby constitutes a breach of planning control.
11. For these reasons, I conclude that the appeal under ground (c) should fail.

The Appeal on Ground (g)

12. An appeal on this ground is that the period specified in the notice for compliance falls short of what should reasonably be allowed. The period for compliance in this case is two weeks. The Council state that compliance has been achieved, although I understand there may be piles of debris remaining on site that would require removal to comply with the enforcement notice. As a result, although the period for compliance is short, it is reasonable in this case.
13. For these reasons, I conclude that the appeal under ground (g) should fail.

Formal Decision

14. The appeal is dismissed and the enforcement notice is upheld.

AJ Steen

INSPECTOR